

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

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MARK KAPITI,

Plaintiff,

- against -

Docket No.: 07 Civ. 3782 (RMB)

Hon. Richard M. Berman (J.)

NOTICE OF MOTION

RAYMOND W. KELLY, in his official capacity
as Commissioner of the New York City Police
Department, PROPERTY CLERK, New York
City Police Department, and The CITY OF NEW
YORK,

Defendants.

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PLEASE TAKE NOTICE that, upon the accompanying Declaration of Steven L. Kessler, dated June 5, 2007, and the Exhibits thereto, the accompanying Memorandum of Law and all prior pleadings and proceedings herein, plaintiff MARK KAPITI will move this Court, at a date to be determined by the Court in accordance with the Court's Scheduling Order for the briefing of these motions, for an Order (1) certifying this matter as a class action pursuant to Rule 23 of the Federal Rules of Civil Procedure and (2) reconsidering and vacating the Court's prior Orders granting defendants' application to unseal the file of plaintiff's acquittal in the State criminal case, together with such other and further relief as this Court deems just and proper.

Dated: New York, New York
June 5, 2008

Respectfully submitted,

LAW OFFICES OF STEVEN L. KESSLER

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